

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANIEL GARCIA,

Plaintiff,

-against-

THOMAS, et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/23/2022

21-CV-636 (GBD) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

Plaintiff Daniel Garcia, proceeding *pro se*, commenced this action pursuant to 42 U.S.C. § 1983 on January 21, 2021, alleging that defendants, who are staff and administrators at the Anna M. Kross Center on Rikers Island, failed to protect him from harming himself during his detention. (Dkt. 1.) Defendants – Correctional Officers Thomas and Joseph, Captain Guerra, and Assistant Deputy Warden Blatz, represented by the New York City Law Department (Law Department) – filed their answer on July 26, 2021. (Dkt. 24.)

The parties were directed to complete fact discovery by December 31, 2021 (Dkt. 28, at 1), but failed to do so, in part because defendants, asserting that they had not received plaintiff's medical release, filed motions to compel production of that release, to extend the discovery schedule, and to dismiss the case for failure to prosecute. (Dkts. 36, 39, 43.) Thereafter, in a letter dated May 6, 2022, defendants withdrew their motion to dismiss, advising that plaintiff had in fact provided the required release the previous October, but that through a series of administrative oversights, it did not reach the correct attorney within the Law Department for approximately five months. (Dkt. 46.) Thereafter, there was no activity in this case for seven months.

On December 16, 2022, I directed the parties to submit a joint status report by December 23, 2022, informing the Court of the status of the matter and proposing a revised pretrial deadlines. (Dkt. 48.) Today, defendants filed a status report without input from plaintiff, because – they

explain – they do not have a telephone number for him, and he did not respond to a letter that they sent him on December 16, 2022. (Dkt. 49.)¹ Defendants note that they have not heard from plaintiff since February 22, 2022, and propose a revised pretrial schedule that would require the parties to complete fact discovery by March 17, 2023 and file their summary judgment motions, if any, by April 17, 2023.²

Rather than set a revised pretrial schedule based solely on defendants' letter, the Court will hold a scheduling conference on **January 25, 2023**, at **10:00 a.m.**, in **Courtroom 20A** of the Daniel Patrick Moynihan United States Courthouse at 500 Pearl Street, New York, NY 10007. **This is an in-person proceeding, which all parties are required to attend**, either *pro se* or through their counsel of record. At the conference, the Court intends to set a schedule for the remaining pretrial proceedings in this case, including written discovery, depositions, and summary judgment motions, if any.

Plaintiff is reminded that it is his obligation to pursue his legal claims diligently, including by attending all scheduled Court proceedings. **Should he fail to attend this or any other Court proceeding, significant sanctions could be imposed, including the dismissal of this case.** Plaintiff is further reminded that it is his obligation to update his address and other contact information, should it change, so that he is able to receive the Court's orders, as well as letters, motions, and other papers filed by defendants. If plaintiff's address or other contact information has changed since he submitted his last change-of-address form (Dkt. 37), **he must promptly update that information**, using the attached form, and submit it to the Pro Se Intake Unit.

¹ Plaintiff provided a telephone number on his last change-of-address form, filed on January 13, 2022. (Dkt. 37.) However, that number is presently not in service.

² The Court assumes that defendants' request for a summary judgment deadline of April 17, **2022**, is a typographical error.

If any party cannot attend the conference on the date and time at which it is scheduled, that party may request an adjournment **by letter**, in accordance with Judge Moses's Individual Practices, after first discussing the matter with the opposing party or attorney and obtaining consent for the requested adjournment, if possible. Adjournment requests must of course be received in advance of the proceeding to be adjourned.

Dated: New York, New York
December 23, 2022

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge

IH-34

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANIEL GARCIA,

Plaintiff,

(List the full name(s) of the plaintiff(s)/petitioner(s).)

21 CV 636 (GBD)(BCM)

-against-

THOMAS, et al.,

Defendants.

(List the full name(s) of the defendant(s)/respondent(s).)

NOTICE OF CHANGE OF
ADDRESS

I hereby notify the Court that my address has changed to the following:

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

E-mail Address (if available)

Date

Signature